

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7635

Petition of Central Vermont Public Service Corporation )  
("CVPS") for a certificate of public good, pursuant to )  
30 V.S.A. § 248, authorizing the construction of a new )  
46 kV electrical substation, and the reconstruction of an )  
existing substation containing 46 kV/12.47 kV )  
distribution facilities and step-up facilities for hydro )  
generation, located on Maple Street and Smead Road in )  
Salisbury, Vermont )

Order entered: 7/25/2011

**ORDER RE: MOTION TO INTERVENE**

In this Order, I grant the Motion to Intervene of George and Barbara Sack.

**I. PROCEDURAL HISTORY**

This case involves a petition filed with the Public Service Board ("Board") by Central Vermont Public Service Corporation ("CVPS") on June 18, 2010, requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. § 248 authorizing: (1) the construction of a new 46 kV electrical substation; and (2) the reconstruction of an existing substation containing 46 kV/4.16 kV distribution facilities and generation step-up facilities for a hydroelectric ("hydro") generation station in Salisbury, Vermont. The proceeding included a Prehearing Conference, Site Visit, Public Hearing, Technical Hearing, and supplemental filings and testimony. On March 3, 2011, the Board issued an Order and a CPG approving the proposed project.

On June 27, 2011, CVPS filed a Motion for Amendment of the March 3 CPG.

On July 12, 2011, George and Barbara Sack (the "Sacks") filed a Motion to Intervene pursuant to Board Rule 2.209(A)(3).

## **II. SACKS' MOTION AND PARTIES' COMMENTS**

In their Motion, the Sacks assert that they have a substantial interest that could be adversely affected by the project because: (1) theirs is the only property that adjoins the proposed Smead Road transmission substation site and from which the substation is fully visible; (2) they have a fifty-foot right-of-way conveyed to them by deed that they believe CVPS has made unusable in two places; and (3) they believe they could lose their water supply under CVPS's proposed blasting plan.

On July 18, 2011, the Department of Public Service ("Department") filed comments on the Sacks' Motion. The Department states that it has no objection to the Sacks' request to intervene in this matter.

On July 19, 2011, CVPS filed comments on the Sacks' Motion. CVPS notes that, pursuant to the Board's August 12, 2010, Scheduling Order, the deadline for motions to intervene in this matter was September 9, 2010. CVPS states that the Sacks did not elect to participate in any of the proceedings in this matter or to file comments prior to issuance of the Order and CPG. Further, CVPS observes that the Board issued a final Order and CPG on March 3, 2011, and that no party filed an appeal. Regarding the Sacks' Motion, CVPS notes that the Motion does not address all of the criteria of Board Rule 2.209(A), specifically that the Sacks have not demonstrated that this proceeding affords the exclusive means by which the Sacks can protect their interest or that the Sacks' interest is not adequately represented by existing parties. CVPS states that the Sacks have not explained why they have waited until now to seek intervention. Finally, CVPS requests that, should the Board grant the Sacks' request, that the Sacks' intervention be limited to issues associated with the pending CVPS Motion to Amend, and that the Sacks be required to take the case as they find it.

## **III. DISCUSSION AND CONCLUSION**

I grant the Sacks' Motion on a permissive basis pursuant to Board Rule 2.209(B) to address the particularized impacts the project may have on their property with respect to the blasting plan and aesthetics. The scope of the Sacks' intervention with respect to aesthetic impacts is limited solely to the extent to which the aesthetics of the project may change from that

which was approved in the March 3 Order and CPG as a result of CVPS's Motion to Amend. On these topics, the Sacks have demonstrated a particularized interest that may not be adequately represented by other parties.

The Sacks' Motion to Intervene was filed fifteen days after CVPS filed its Motion to Amend. While CVPS is correct that the deadline for motions to intervene in this matter regarding the original petition has passed, no such deadline has been established for the proposed amendment. The party status granted to the Sacks pertains exclusively to the Motion to Amend, and the Sacks must take the case as they find it. The Sacks may not relitigate matters that have already been decided and that are not part of the Motion to Amend.

With respect to the Sacks' concerns regarding their deeded fifty-foot right-of-way, the Board's jurisdiction in this proceeding is limited to review of the proposed project under the Section 248 criteria. Any claims regarding nuisance or property rights are a matter for civil courts, and not this Board.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 25<sup>th</sup> day of July, 2011.

s/Thomas Knauer  
Thomas Knauer  
Hearing Officer

OFFICE OF THE CLERK

FILED: July 25, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*